

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRICK WILLIAMS,

Petitioner,

Case No. 18-cv-12396

v.

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

SHERMAN CAMPBELL,

Respondent.

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE
APPLICATION TO PROCEED WITHOUT PREPAYING FEES AND
COSTS ON APPEAL [#17] TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT**

On April 5, 2019, this Court summarily dismissed the petition for a writ of habeas corpus, denied the motion for an evidentiary hearing, declined to issue a certificate of appealability, and denied Petitioner leave to appeal *in forma pauperis*. Dkt. No. 14.

On April 16, 2019, Petitioner filed a notice of appeal with the United States Court of Appeals for the Sixth Circuit. Dkt. No. 16. Petitioner also filed an application to proceed without prepayment of fees and costs on appeal with this Court. Dkt. No. 17. For the reasons stated below, the Court orders that the application be transferred to the United States Court of Appeals for the Sixth Circuit.

A notice of appeal generally “confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal.” *Marrese v. Am. Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985) (citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam)); *Workman v. Tate*, 958 F.2d 164, 167 (6th Cir. 1992). Petitioner’s notice of appeal divests this Court of jurisdiction to consider his motion that he be permitted to proceed *in forma pauperis* in the Sixth Circuit Court of Appeals. *See Johnson v. Woods*, No. 5:12–11632; 2013 WL 557271, *2 (E.D. Mich. Feb. 13, 2013); *Glick v. U.S. Civil Service Comm’n*, 567 F. Supp. 1483, 1490 (N.D. Ill. 1983); *Brinton v. Gaffney*, 560 F. Supp. 28, 29–30 (E.D. Pa. 1983).

Because jurisdiction of this action was transferred from the district court to the Sixth Circuit Court of Appeals upon the filing of the notice of appeal, the application to proceed *in forma pauperis* on appeal would be more appropriately addressed to the Sixth Circuit. In the interests of justice, this Court can order that the application to proceed without prepayment of fees and costs be transferred to the Sixth Circuit for that court’s consideration. *See Baker v. Perry*, No. 2:12–10424; 2012 WL 6097323, *2 (E.D. Mich. Dec. 6, 2012).

IT IS HEREBY ORDERED that the Clerk of the Court transfer petitioner’s Application to Proceed Without Prepaying Fees and Costs on Appeal [#17] to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

SO ORDERED.

Dated: April 23, 2019

s/Gershwin A. Drain
HON. GERSHWIN A. DRAIN
United States District Court Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
April 23, 2019, by electronic and/or ordinary mail.

/s/ Teresa McGovern
Case Manager